

# PATENT COOPERATION TREATY

REC'D 05 SEP 2005

From the  
INTERNATIONAL SEARCHING AUTHORITY

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## PCT

### WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

To:  
ROBERT M. SCHWARTZ  
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Date of mailing  
(day/month/year) **01 SEP 2003**

**FOR FURTHER ACTION**  
See paragraph 2 below

Applicant's or agent's file reference

48000-0002

International application No.

International filing date (day/month/year)

Priority date (day/month/year)

PCT/US04/05354

24 February 2004 (24.02.2004)

24 February 2003 (24.02.2003)

International Patent Classification (IPC) or both national classification and IPC

IPC(7): B62D 39/00; B60P 3/05 and US Cl.: 250/515.1, 517.1; 296/1R, 19, 24.1

Applicant

POMPER, MARK E

1. This opinion contains indications relating to the following items:

- ☒ Box No. I      Basis of the opinion
- ☐ Box No. II      Priority
- ☐ Box No. III      Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV      Lack of unity of invention
- ☒ Box No. V      Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability, citations and explanations supporting such statement
- ☐ Box No. VI      Certain documents cited
- ☐ Box No. VII      Certain defects in the international application
- ☐ Box No. VIII      Certain observations on the international application

#### 2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/ US

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**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY**

International application No.

PCT/US04/05354

**Box No. I Basis of this opinion**

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.  
☐ This opinion has been established on the basis of a translation from the original language into the following language \_\_\_\_\_, which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
  - a. type of material  
☐ a sequence listing  
☐ table(s) related to the sequence listing
  - b. format of material  
☐ in written format  
☐ in computer readable form
  - c. time of filing/furnishing  
☐ contained in international application as filed.  
☐ filed together with the international application in computer readable form.  
☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY**

International application No.  
PCT/US04/05354

**Box No. V Reasoned statement under Rule 43 bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

**1. Statement**

Novelty (N)

Claims NONE

YES

Claims 1-11

NO

Inventive step (IS)

Claims NONE

YES

Claims 1-11

NO

Industrial applicability (IA)

Claims 1-11

YES

Claims NONE

NO

**2. Citations and explanations:**

Claims 1-11 lack novelty under PCT Article 33(2) as being anticipated by Clark [4,449,746]. As per claims 1-5, Clark [4,449,746] discloses a mobile radiation treatment vehicle comprising a patient treatment compartment (figs. 1-4) having at least one radiation shield member (figs. 1-4, col. 2 lines 4-10, 40-65, col. 4 lines 5-35), the at least one radiation shield member positioned to prevent at least a portion of radiation emitted from a treatment device from passing through an interior of the patient treatment compartment to an outside area, the treatment device (CT-Scanner) being capable of emitting radiation used in connection with radiation therapy and positioned in the patient treatment compartment, and a shielded partition member (figs. 1-4, col. 2 lines 4-10, 40-65, col. 4 lines 5-35) positioned in the patient treatment compartment and proximate to the treatment device, the shielded partition member positioned to reduce or prevent exposure to a user from radiation emitted from the treatment device during patient treatment. In addition, Clark [4,449,746] discloses at least one radiation shield member and the shielded partition member having shielding that is selected from the group consisting of lead, aluminum, alloys of lead, polymers, concrete, and fiberglass. It also teaches the shielded partition member extends a length from a floor of the vehicle sufficient to shield a user (figs. 2,4). See Clark [4,449,746] abstract, figs. 1-4, col. 1 lines 10-35, col. 2 lines 5-10, 40-65, col. 3 lines 10-20, col. 4 lines 45-67, col. 5 lines 5-32, and col. 6 lines 5-20.

As per claims 6, Clark [4,449,746] discloses a method for providing radiation therapy comprising preparing a mobile radiation treatment vehicle having a patient treatment compartment having at least one radiation shield member, at least one radiation shield member positioned to prevent at least a portion of radiation emitted from a treatment device from passing through an interior of the patient treatment compartment to an outside area, the treatment device being capable of emitting radiation used in connection with radiation therapy and positioned in the patient treatment compartment, and a shielded partition member positioned in the patient treatment compartment and proximate to the treatment device, the shielded partition member positioned to reduce or prevent exposure to a user from radiation emitted from the treatment device during patient treatment, providing access to an interior area of the patient treatment compartment to a patient, and securing the treatment device in a position relative to the patient, providing radiation therapy to the patient and shielding the user from at least a portion of the radiation emitted from the treatment device. See Clark [4,449,746] abstract, figs. 1-4, col. 1 lines 10-35, col. 2 lines 5-10, 40-65, col. 3 lines 10-20, col. 4 lines 45-67, col. 5 lines 5-32, and col. 6 lines 5-20.

As per claims 7-11, Clark [4,449,746] discloses at least one radiation shield member and the shielded partition member having shielding that is selected from the group consisting of lead, aluminum, alloys of lead, polymers, concrete, and fiberglass. In addition, it discloses the shielded partition member extends a length from a floor of the vehicle sufficient to shield a user, access being by a door, and the door being shielded to limit the passage of radiation. See Clark [4,449,746] abstract, figs. 1-4, col. 1 lines 10-35, col. 2 lines 5-10, 40-65, col. 3 lines 10-20, col. 4 lines 45-67, col. 5 lines 5-32, and col. 6 lines 5-20.